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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MADHAV MOGANTI, MAYURESH PANDIT, and ANISH SANKALIA

Appeal 2017-002596
Application 13/731,645
Technology Center 2400

Before LINZY T. McCARTNEY, NATHAN A. ENGELS, and JAMES W. DEJMEK, *Administrative Patent Judges*.

PER CURIAM.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a rejection of claims 1–5 and 7–21. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

CLAIMED INVENTION

Claim 1 recites the following:

1. An apparatus, comprising:

a processor and a memory communicatively connected to the processor, the processor configured to: receive, from a communication source, a communication intended for a communication destination, wherein the communication is associated with a source entity comprising an individual or an institution, wherein the source entity is associated with the communication source, wherein the communication comprises real information associated with the source entity;

obtain source entity mapping information for the source entity, wherein the source entity mapping information comprises a mapping of a real identity of the source entity to a virtual identity of the source entity, wherein the real identity comprises the real information associated with the source entity and the virtual identity comprises virtual information associated with the source entity, wherein the virtual information of the virtual identity of the source entity is configured to protect the real information of the real identity of the source entity;

process the communication, to form a modified communication intended for the communication destination, based on the source entity mapping information for the source entity, wherein processing the communication to form the modified communication comprises removing the real information associated with the source entity from the communication and inserting within the communication at least a portion of the virtual information of the virtual identity of the source entity;

propagate the modified communication toward the communication destination; and

modify at least a portion of the virtual information of the virtual identity of the source entity dynamically, based on the communication, via generation of new virtual information for the virtual identity of the source entity.

Appeal Brief 24, filed April 8, 2016 ("App. Br.").

REFERENCES AND REJECTIONS

The Examiner rejected claims 1–5 and 7–21 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Final Office Action 4–5, mailed November 20, 2015 ("Final Act.").

The Examiner rejected claims 1–5 and 7–21 under 35 U.S.C. § 103(a) as unpatentable over Bustamente, Yeung, and one or more of Teague, Morris, Krooss, Nas, and Martin-Cocher. Final Act. 6–27.[1]

ANALYSIS

Rejection under 35 U.S.C. § 101

The Examiner concludes claims 1, 19, and 20 encompass nonstatutory subject matter because each of the claims recite an abstract idea. *See* Final Act. 4–5; Answer 4–8, mailed Dec. 1, 2016 ("Ans."). In particular, the Examiner finds these claims concern the abstract idea of "hiding [the] identification of [a] transmission source" and include limitations that do not "amount to significantly more than the judicial exception and to limit the use of the abstract idea to a particular result." Final Act. 4, 5. Appellants argue the Examiner errs by failing to provide adequate reasoning to support this rejection. *See* App. Br. 15–17; Reply Brief 2–9, filed Dec. 20, 2016 ("Reply Br.").

[1] Bustamente (US 2010/0287286 A1; published Nov. 11, 2010); Yeung et al. (US 2013/0129066 A1; published May 23, 2013) ("Yeung"); Teague (US 2003/0229717 A1; published Dec. 11, 2003); Morris et al. (US 2008/0115223 A1; published May 15, 2008) ("Morris"); Krooss (US 2008/0208611 A1; published Aug. 28, 2008); Nas (US 2011/0216762 A1; published Sept. 8, 2011); Martin-Cocher et al. (US 2009/0150488 A1; published June 11, 2009) ("Martin-Cocher").

We agree with Appellants that Examiner's rejection lacks adequate supporting reasoning. For example, the Examiner finds the recited limitations are "not sufficient to amount to significantly more than the judicial exception and to limit the use of the abstract idea to a particular result." Final Act. 5. However, the Examiner fails to explain why this is the case. *See* Final Act. 5. The Examiner also finds the claims are directed to the abstract idea of "hiding [the] identification of [a] transmission source," which in the Examiner's view, corresponds to the patent-ineligible method discussed in *Cyberfone Systems, LLC v. CNN Interactive Grp., Inc.*, 588 Fed. Appx. 988 (Fed. Cir. 2016) (nonprecedential). *See* Ans. 7–8. But here, too, the Examiner fails to provide an adequate explanation for these findings. The Examiner simply asserts, without supporting reasoning, that the claims are directed to an abstract idea that "would be identified as using categories to organize store and transmit information" like the claims discussed in *Cyberfone*. Ans. 8 (citing *Cyberfone Systems, LLC v. CNN Interactive Grp., Inc.*, 588 Fed. Appx. 988 (Fed. Cir. 2016) (nonprecedential)).

Based on the record before us, we do not sustain the Examiner's rejection of claim 1–5 and 7–21 under 35 U.S.C § 101. We reiterate that we do not sustain the Examiner's rejection *solely* because the rejection lacks adequate supporting reasoning. We take no position on whether the claims are patent eligible.

Rejections under 35 U.S.C. § 103(a)

We have reviewed the Examiner's rejections under 35 U.S.C. § 103(a) in light of Appellants' arguments, and we disagree with Appellants the Examiner errs. To the extent consistent with the analysis below, we adopt the Examiner's reasoning, findings, and conclusions set forth in the appealed

office action and the Examiner's Answer. Appellants have waived arguments Appellants failed to timely raise or properly develop. *See* 37 C.F.R. §§ 41.37(c)(1)(iv), 41.41(b)(2).

Claim 1 recites in relevant part "modify at least a portion of the virtual information of the virtual identity of the source entity dynamically, based on the communication, via generation of new virtual information for the virtual identity of the source entity." App. Br. 24. The "virtual information" is both "associated with the source entity" and "configured to protect the real information of the real identity of the source entity." App. Br. 24.

Appellants contend the Examiner errs in finding Yeung's temporary IP address teaches or suggests the "virtual information" recited in claim 1. *See* App. Br. 18–20; Reply Br. 9–14. According to Appellants, Yeung's temporary IP address is not associated with the *source* entity but instead concerns a *destination* entity. App. Br. 18–19; Reply Br. 9–10, 12. Appellants also argue Yeung's temporary IP address is not "configured to protect real information" but is instead used "so that calls may be directed to the user's current location at any time.'" App. Br. 19 (citing Yeung ¶ 37) (emphasis omitted); Reply Br. 12–13. Further, Appellants argue Yeung does not teach or suggest the recited "real entity" or "virtual identity." App. Br. 19.

We find Appellants' arguments unpersuasive. Appellants' arguments attack Yeung individually and fail to substantively address the Examiner's rejection, which is based on what a person of ordinary skill would have understood from the combined teachings of the Bustamente, Yeung, and Teague references. "[O]ne cannot show non-obviousness by attacking

references individually where, as here, the rejections are based on combinations of references." *In re Keller*, 642 F.2d 413, 426 (CCPA 1981)

In rejecting claim 1, the Examiner finds (and Appellants do not specifically rebut) that Bustamente teaches a "virtual identity compris[ing] virtual information" that is "associated with the source entity" and "configured to protect the real information of the real identity of the source entity." Final Act. 6–8; Bustamente, e.g., Figs. 2, 3A, 3B, ¶¶ 25, 27; Reply Br. 11 ("Appellants note that it is understood that the Examiner is relying upon Bustamente to teach these features . . . ."). We agree with the Examiner that Bustamente teaches or suggests these limitations through its disclosure of a virtual email address (ProfileZ@match.com) comprising a virtual profile name (ProfileZ) that is mapped to and associated with a user named Sally and used to protect Sally's personal contact information, including her real email address (Sally@gtalk.com). *See* Bustamente Fig. 2; ¶¶ 25, 27. Accordingly, because Bustamente teaches or suggests a "virtual identity" comprising "virtual information" "configured to protect the real information of the real identity," a showing of obviousness does not require Yeung to also teach or suggest these limitations. *See Keller*, 642 F.2d at 425 ("The test for obviousness is not . . . that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.").

Next, Appellants submit Yeung does not teach or suggest the "generation of new virtual information" portion of claim 1's "modify" limitation. App. Br. 19; Reply Br. 13. Appellants assert Yeung's disclosure of updating a temporary IP address does not teach or suggest generating the

temporary IP address as the user moves from location to location because the temporary IP address may already exist. App. Br. 19; Reply Br. 13.

We find Appellants' argument unpersuasive. In addition to the Examiner's findings regarding Bustamente's database with virtual information mapped to real information (*see* Final Act. 7–9 (citing Bustamente Figs. 2, 3A, 3B, ¶¶ 25–28, 30)), we agree with the Examiner that Yeung suggests "modify[ing] . . . information . . . dynamically . . . via generation of new . . . information" with its disclosure of updating information in an E.164 Number Mapping ("ENUM") database, such as by creating or updating a temporary IP address when a user changes location. *See* Ans. 11 (citing Yeung ¶ 37 ("as user moves from location to location the location identifier in ENUM database would be updated based on the current location")); Final Act. 9–10 (citing Yeung ¶ 37); *compare* Spec. 7–8 (stating that virtual information may be updated based on trigger conditions such as a location-based trigger, among other things; "For example, a new virtual address may be generated when a particular location is reached."). As the Examiner finds, Yeung teaches or at least suggests updating or generating new virtual information, as one of ordinary skill in the art would understand that updating an ENUM database with a temporary IP address would include creating a new temporary IP address as needed. *See Perfect Web Techs., Inc. v. InfoUSA, Inc.*, 587 F.3d 1324, 1329 (Fed. Cir. 2009) (explaining that an obviousness analysis "may include recourse to logic, judgment, and common sense available to the person of ordinary skill that do not necessarily require explication in any reference or expert opinion"); *see also* Spec. 8 ("This enables the user or institution to update real information (e.g., real name after marriage or divorce, real address after moving, temporary

change of home address to vacation address, addition of a new address for a new office location of an institution, or the like) without requiring generation of new virtual information or even modification of existing virtual information (*although it will be appreciated that, alternatively or additionally, some or all of the existing virtual information also may be updated or new virtual information may be generated*)." (emphasis added)).

Appellants further contend the Examiner errs in finding Teague teaches or suggests a processor configured to "modify . . . the virtual information . . . based on the communication." App. Br. 20; Reply Br. 14–15. Appellants argue "the cited portion of Teague primarily discloses that one of a plurality of sender aliases is *selected* based on the intended recipient, not that information of one of the sender aliases is *modified*." App. Br. 20 (emphases modified); Reply Br. 14. In Appellants' view, Teague's disclosure of using different virtual identities for different recipients of different communications is not the same as modifying at least a portion of the information of one of the virtual identities based on the communication. Reply Br. 14–15.

We find Appellants' arguments unpersuasive. First, Appellants' arguments attack Teague individually without regard to the combined teachings of Bustamente, Yeung, and Teague. As noted above, "one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references." *Keller*, 642 F.2d at 426.

Second, the disputed limitation recites "modify[ing] *at least* a portion of the virtual information of the virtual identity of the source entity dynamically, based on the communication." App. Br. 24 (emphasis added).

As cited by the Examiner, Teague teaches a system of alias management rules that specify which of a sender's aliases is to be used for a given communication and determining whether the alias currently in a message is the alias specified in a selected rule. Teague ¶ 50. Further, Teague teaches, if necessary, "changing the alias in the message as appropriate, for example, to be the same as the one specified in the rule selected." Therefore, this limitation encompasses *replacing* the existing virtual information in a given message with other virtual information because the limitation does not limit the claimed "modify[ing]" to *only* a portion of the recited virtual information. Teague teaches "modify[ing] . . . the virtual information . . . based on the communication" under this interpretation of the limitation. Teague discloses "an alias management rule [that] specifies which of the sender's aliases is to be used for which of the intended recipients." Teague ¶ 50. Teague's system "chang[es] the alias in the message as appropriate, for example, to be the same as the one specified in the rule selected" Teague ¶ 50. Teague therefore teaches changing ("modify[ing]") a current message's alias ("virtual information") to a different alias, based on a rule for an intended recipient ("based on a communication").[2]

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[2] Teague also suggests that changing a method's alias may involve dynamically generating a new alias to apply to the message. For example, Teague teaches that changing an alias can include other steps, including steps performed when receiving an email. *See* Teague ¶ 50 ("Alternatively, processing can include other actions, such as for example, those described with respect to method 300), Fig. 3 (depicting a method for processing received messages). Teague teaches that, in some cases, processing received messages involves creating a new identity: "[r]eceiving email from a correspondent to a new identity will automatically create the new identity, e.g., while signing up on a website you can create a new address . . . such that

For the reasons stated above, Appellants' arguments do not persuade us the Examiner errs in combining Bustamente, Yeung, and Teague to teach or suggest claim 1. Accordingly, we sustain the Examiner's rejection of independent claim 1 and the rejections of independent claims 19 and 20 and dependent claims 2–5, 7–18, and 21, which were not argued separately with particularity beyond the arguments advanced for claim 1. *See* App. Br. 18–22; Reply Br. 9–17.

DECISION

We reverse the Examiner's decision in rejecting claims 1–5 and 7–21 under 35 U.S.C. § 101.

We affirm the Examiner's decision in rejecting claims 1–5 and 7–21 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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the incoming promotional email from the website automatically creates the identity." Teague ¶ 24. In light of these teachings, it would have been obvious to create a new identity based on *sending* an email from a new address and using this newly created identity to replace an existing one.